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PRACTICE LIMITED TO MATTERS BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

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July 9, 1999

Ms. Magalie Salas
Federal Communications Commission
The Portals
445 12th Street, S.W - TW-A325
Washington, D.C. 20554

RE: MM Docket Number No. 99-174 (RM-9577)
Hanamaulu, Hawaii

Dear Ms. Salas:

Transmitted herewith, through counsel, on behalf of Aloha Mahalo Broadcasting Company, is an original and six copies of Formal Comments in the above-captioned proceeding.

Should any questions arise with regard to this matter, please communicate with the undersigned, directly.

Respectfully submitted,



Richard J. Hayes, Jr.
Aloha Mahalo Broadcasting Company

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON DC 20554

Federal Communications Commission
Office of Secretary

In The Matter of:

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
Hanamaulu, Hawaii

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MM Docket Number: 99-174
RM Number: 9577

TO: Chief, Allocations Branch

COMMENTS OF
ALOHA MAHALO BROADCASTING COMPANY

Comes Now, Aloha Mahalo Broadcasting Company, through counsel, with Formal Comments in the above-captioned proceeding.

On May 21, 1999, the Federal Communications Commission released a "Notice of Proposed Rule Making" in the Hanamaulu, Hawaii FM proceeding. Mountain West Broadcasting ("MWB") requested the allotment of FM channel 266C1 to Hanamaulu, Hawaii as its first local aural transmission facility. In this multiple docket "Notice of Proposed Rulemaking", the Federal Communications Commission proposed nineteen (19) new FM facilities at locations ranging from Hawaii to Idaho to California and Louisiana. All nineteen facilities were proposed by MWB.


In the instant proceeding, MWB's proposal to add first aural service to Hanamaulu, Hawaii must fail. Aloha Mahalo Broadcasting Company opposes the allotment of any FM channel to Hanamaulu, Hawaii because Hanamaulu is **NOT** a community; it is merely a neighborhood. (See: Belview, Minnesota 11 FCC Rcd 12793 (1996) and Lupton, Michigan 11 FCC Rcd 143428 (1996)) Such an allotment would be a waste of scarce FM resources and would not be in the public interest. Hanamaulu does not qualify for an allotment in accordance with the Commission's policies. Hanamaulu is neither incorporated nor is it listed in the U.S. census. It has no separate governing authority, no police department, no fire department, and no taxing authority. A Declaration regarding the status of Hanamaulu is attached to these comments. This Declaration was prepared on behalf of Aloha Mahalo Broadcasting Company by Patrick J. Childs, an attorney and a former Commissioner of Police on the Island of

Kauai, where the neighborhood of Hanamaulu is located. Mr. Childs states, under penalty of perjury, that Hanamaulu as merely a neighborhood and cannot be considered a community in the classical sense.

Aloha Mahalo Broadcasting Company, under separate cover, has also filed Formal Comments in opposition to the MWB proposal to add FM channel 232C1 to Hanapepe, Hawaii (MM Docket Number 99-175, RM-9578) for the same reason: neither neighborhood is a community for allotment purposes.

For the reasons stated above, Aloha Mahalo Broadcasting Company respectfully urges the Federal Communications Commission to find that Hanamaulu, Hawaii is **NOT** a community for allotment purposes and that the proposed Amendment of the FM Table of Allotments be **DENIED**.

Respectfully Submitted,

By: 
Richard J. Hayes, Jr.
Counsel to
Aloha Mahalo Broadcasting Company

Richard J. Hayes, Jr.
Attorney at Law
8404 Lee's Ridge Road
Warrenton, Virginia 20186

(540) 349-9970

Exhibit A

Declaration of Patrick J. Childs, Esq.


DECLARATION OF PATRICK J. CHILDS

I, Patrick J. Childs, do depose and state that:

1. I am an attorney, licensed to practice law in the State of Hawaii and my practice is involved primarily in real property law.
2. I am a life long resident of Kauai.
3. I am the former chairman of the Kauai Police Commission.
4. Aloha Mahalo Broadcasting Co has asked me to research the status of the neighborhoods of Hanamaulu and Hanapepe.

Both of these areas are unincorporated and can best be described as neighborhoods. They have no separate governing authorities, police departments, fire departments or taxing authorities. The population is not separately indexed for census purposes. In my opinion, these neighborhoods cannot be considered as separate communities. I am extremely familiar with the communities in question.


Under penalty of perjury, I make this statement of my own free will this 9th day of July, 1999.


PATRICK J. CHILDS

Certificate of Service

I, Richard J. Hayes, Jr., hereby state, under oath, that I have caused to be mailed on July 12, 1999, via First Class U.S. Mail, postage prepaid, a copy of the foregoing to the following:

Mountain West Broadcasting
c/o Victor A. Michael, Jr., President
Mountain West Broadcasting
6807 Foxglove Drive
Cheyenne, WY 82009



Richard J. Hayes, Jr.